

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

ECF Case  
2:14-cv-01801-ADS-ARL

LONG BEACH ROAD HOLDINGS, LLC,

**DECLARATION  
Of JACQUELINE M. JAMES  
IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO FAIRMONT'S  
MOTION TO DISMISS**

Plaintiff,

-against-

FOREMOST INSURANCE COMPANY, FAIRMONT  
INSURANCE BROKERS, LTD.,

Defendants.

-----X

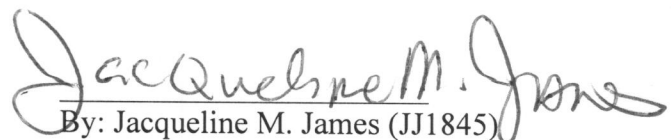
Jacqueline M. James, an attorney at law duly admitted to practice in the State of New York, affirms the following under penalty of perjury:

1. I am Of Counsel to the law firm of Michael Khader P.C., attorneys for Plaintiff Long Beach Holdings, in the above captioned matter. And as such, am familiar with the facts and circumstances hereinafter set forth.
2. Attached hereto are a true and correct copies of pages printed from Defendant Fairmont Insurance Brokers, LTD. web page located at: [www.fairmontins.com](http://www.fairmontins.com) as Exhibit 1.
3. Attached hereto is a true and correct copy of the Flood Insurance Application filed on behalf of Plaintiff Long Beach Holdings on October 4, 2012 previously submitted to this Court as D.E. # 32 page ID # 261 as Exhibit 2.

4. Attached hereto is a true, correct and full copy of the Evidence of Commercial Property Insurance dated October 25, 2012 issued by Defendant Fairmont Insurance Brokers, LTD. to Plaintiff Long Beach Holdings as Exhibit 3.
5. Attached hereto is a true and correct copy of the Certificate of Liability Insurance dated October 25, 2012 issued by Defendant Fairmont Insurance Brokers, LTD. to Plaintiff Long Beach Holdings as Exhibit 4.
6. Attached hereto is a true and correct copy of the letter sent by Fairmont's President Moishe Mishkowitz dated December 17, 2013 to Foremost and a FEMA employee previously submitted to this Court as D.E. # 32 page ID # 258 as Exhibit 5.

Dated: Westchester County New York  
September 5, 2014

Michael Khader P.C.

A handwritten signature in dark ink, appearing to read "Jacqueline M. James", is written over a horizontal line.

By: Jacqueline M. James (JJ1845)  
Attorneys for Plaintiff Long Beach  
733 Yonkers Avenue Suite 200  
Yonkers, New York 10704

Plaintiff's  
EXHIBIT 1



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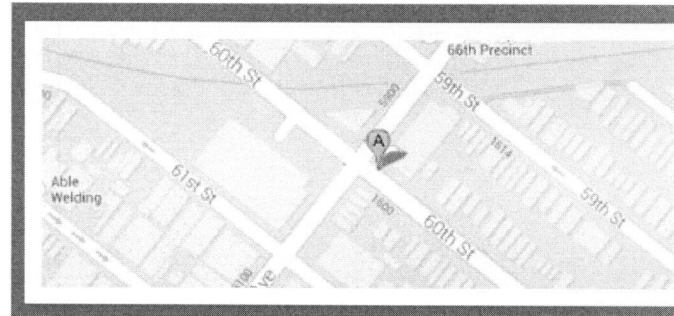


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**Fairmont Insurance**

1600 60th Street  
Brooklyn N.Y. 11204

Phone: (718) 232-3300  
Toll-free: (800) 379-0019  
Fax: (718) 256-9062





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## PERSONAL LINES

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You've worked hard to build a life for yourself and your family. Now it's time to make sure it's well protected with insurance coverage that makes sense for your assets and your budget. Fairmont Insurance will find the right comprehensive coverage to protect your family and your assets, with attentive customer service to give you peace of mind.

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In an age of rising sea levels, adequate flood insurance is becoming more challenging to find, and often has more strings attached. Now more than ever, you need to trust the professionals to make sure you are getting coverage that works for you.

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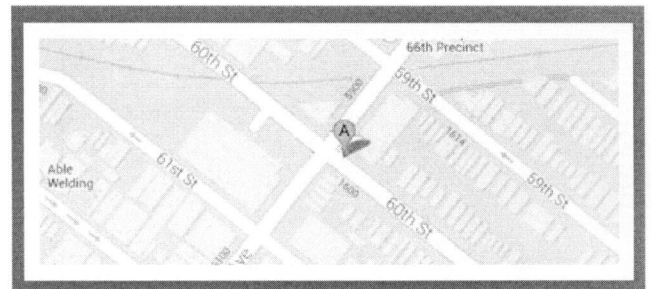
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[CONTACT](#)

### Fairmont Insurance

1600 60th Street  
Brooklyn N.Y. 11204

Phone: (718) 232-3300  
Toll-free: (800) 379-0019  
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It's what happens  
after you get your policy that makes the difference.

Fairmont is with you for the life of your policy with personal, attentive service.

Unlike many agencies who bank on fast commissions and small overhead, Fairmont is committed to servicing your policy for its entire life. So when you need to make a claim, find information about your policy, or make adjustments to your coverage, we'll be there.



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Audit Assistance

Coverage Assessment

Risk Management

TPA Assignment

As long as you have the right coverage, your assets, investments, and your time are adequately protected. To make sure you have the coverage you need, we review your existing portfolio upon each policy's renewal with these questions in mind:

Are there weaknesses in coverage that leave you and your assets vulnerable?

Does your current level of asset protection reflect your current exposure?

Are there opportunities to broaden coverage without necessarily increasing your premiums?

The same coverage assessment evaluation is used for our new clients as well. Every quote we offer answers these and other questions, aiming to get you the best coverage at the best price. After all, if all you are getting is the lowest premium, you may not be getting the coverage you need.





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## SERVICES

It's what happens  
after you get your policy that makes the difference.

Fairmont is with you for the life of your policy with personal, attentive service.

Unlike many agencies who bank on fast commissions and small overhead, Fairmont is committed to servicing your policy for its entire life. So when you need to make a claim, find information about your policy, or make adjustments to your coverage, we'll be there.



Claims Assistance

Audit Assistance

Coverage Assessment

Risk Management

TPA Assignment

We understand the anguish a loss or a claim can cause, so we go the extra mile to take the weight off your shoulders. Our Claims Specialists make sure your claim, large or small, is handled quickly and efficiently so that you can avoid further losses of assets and time. Our claims staff is professional, courteous, and at your side from the moment you make a claim to its settlement.

And because we carry weight with insurers and claims adjusters thanks to our large volume of business with them, your claim will be settled quickly and fairly. For your convenience, our Claims Department is available extended hours.

But the best time to talk about coverage is before a claim is necessary. The Claims Department is available to talk about claim-related issues. Not sure if you are covered? Is a particular claim worth being reported? Do new circumstances need to be reported? We're always here to answer your questions.



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## ABOUT US

Since 1984,

Fairmont Insurance has built a sterling reputation as a responsive, full-service insurance agency placing insurance for businesses and private households nationwide.

Our success is due to our extensive experience in property and casualty insurance, and to our distinguished roster of clients in the real estate, construction, wholesale / retail trade, manufacturing, social service, transportation, and hospitality industries. Fairmont Insurance places all forms of insurance coverage, offering individuals, professionals, businesses, and organizations cost-effective solutions for all types of coverage. We have access to specialty markets that enables us to successfully place specialty coverage, even the "hard-to-place risks." Fairmont Insurance Brokers Ltd., located in Brooklyn, New York, is a subsidiary of the Fairmont Group, which is comprised of Fairmont Funding, Fairmont Capital, Fairmont Financial, Nationwide Settlements, and Rockwell Abstract Corporation.



### Mission

We shop for the best products for our clients' needs. As an independent insurance agency and brokerage, we can offer our clients an extensive range of property and casualty solutions without playing favorites with any one carrier.

### Staff

We develop our markets to ensure best pricing. Fairmont's high volume of business has enabled us to develop preferred agent relationships with the nation's leading carriers, including Greater New York Mutual (GNY), Travelers Insurance, Philadelphia Insurance (Tokio Marine), Starr Insurance and Magna Carta. These associations help us ensure the most competitive rates and best response times in the business.

Although we have extensive relationships with our insurance companies, our main focus is on our client. Our goal is to find the right insurance carrier and design an insurance placement which covers our client on a comprehensive and competitive basis. Fairmont Insurance is not just any broker, we are **your** broker.

Plaintiff's  
EXHIBIT 2



FOREMOST INSURANCE CO.  
FLOOD INSURANCE PROCESSING CENTER  
P.O. Box 2057  
Kalspell, NY 9993-2057  
Telephone: (800)240-9270

PREFERRED RISK FLOOD INSURANCE APPLICATION - EXTENSION  
QUOTE NUMBER: 7814763  
POLICY NUMBER:  
ALTERNATE POLICY NUMBER:

INSURED MAILING ADDRESS	LONG BEACH ROAD HOLDINGS 312 LONG BEACH ROAD ISLAND PARK, NY 11558 Telephone: (914) 447-0337 Email: <a href="mailto:jose@Society-Organization.Com">jose@Society-Organization.Com</a>		REQUESTED EFFECTIVE DATE: 10-29-2012 to 10-29-2013 12:01 a.m. local time at the insured property location												
	PROPERTY ADDRESS	312 LONG BEACH ROAD ISLAND PARK, NY 11558		AGENT INFO Agent Name: Fairmont Ins Brokers Ltd Producer Number: 08711-34145-000-00001 Alternate Agent Number: 319200933 Agency Name: Fairmont Ins Brokers Ltd Agent Address: 1600 60TH ST Brooklyn, NY 11204-2138 Phone Number: (718)232-3300											
GENERAL INFO		On Renewal B/E To: Insured Policy Type: Preferred Risk (PRP) Waiting Period: Loan Transaction - No Wait Loan Close Date: 10-29-2012 Prior Policy Number: Prior Policy Expiration Date: Prior Policy Issued By:		FIRST MORTGAGEE THE WESTCHESTER BANK 2001 CENTRAL PARK AVENUE YONKERS, NY 10710 SECOND MORTGAGEE											
	COMMUNITY	Current Community Number: 360471 0307 G FIRM Date: 2-14-1976 Program Type: Regular County: NASSAU COUNTY Current Flood Zone: AE PRP Extension: 2 Year Prior Community Number: 360471 0307 F Prior Flood Zone: X Flood Zone Det Number: 1138-0087		LOSS PAYEE DISASTER AGENCY											
BUILDING		Occupancy: Non Residential Building Use: Other - 1 Family With Commercial Space Building Description: Apartment And Dental Office Foundation: Split Level Basement / Finished Enclosure/Crawl Vented: Number of Floors: Split Level Condo Form of Ownership: No Number of Units: 1 Condo Description: Not a Condo Date of Construction Source: Original Construction Date Date of Construction: 1-1-2002 Course of Construction: No Located on Federal Land: No Principal Residence: No Estimated Replacement Cost: \$840,000 Replacement Cost Ratio: 48% Location of Contents: Basement/Enclosure/Crawl Space and Above Attached Garage: No		DISASTER ASSISTANCE Required for Disaster Assistance: No Disaster Government Agency: Not Required Case File Number:											
	MANUFACTURED (MOBILE) HOMES	Anchoring Method: Installation Method: Make: Model: Year: Serial Number: Dimensions: Additions/Extensions:		ELIGIBILITY A building's eligibility for a Preferred Risk Policy is based on the requirements and the building's flood loss history, as defined in the NFIP Flood Insurance Manual. Does the property meet these eligibility requirements? Yes											
<table border="1"> <thead> <tr> <th>REQUESTED COVERAGE</th> <th>AMOUNT</th> <th>DEDUCTIBLE</th> <th>PREMIUM</th> </tr> </thead> <tbody> <tr> <td>Building</td> <td>\$400,000</td> <td>\$1,000</td> <td>\$2,192</td> </tr> <tr> <td>Contents</td> <td>\$50,000</td> <td>\$1,000</td> <td></td> </tr> </tbody> </table> <p>The above rate is based on the Preferred Risk Eligibility Extension. Standard rates will apply when the extension expires. FULL PREMIUM MUST ACCOMPANY APPLICATION</p>				REQUESTED COVERAGE	AMOUNT	DEDUCTIBLE	PREMIUM	Building	\$400,000	\$1,000	\$2,192	Contents	\$50,000	\$1,000	
REQUESTED COVERAGE	AMOUNT	DEDUCTIBLE	PREMIUM												
Building	\$400,000	\$1,000	\$2,192												
Contents	\$50,000	\$1,000													

The statements contained herein are correct to the best of my knowledge. The property owner and I understand that any false statements may be punishable by fine or imprisonment under applicable federal law.

Signature of Agent/Producer  
Date: 10-4-2012  
FP v10.62.55.1  
Printed By: 319200933

Signature of Insured (Optional)  
Date  
Page 1 of 2  
Print Date: 10-23-2012

Plaintiff's  
EXHIBIT 3





# EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

 DATE (MM/DD/YYYY)  
 10/25/2012

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.			
PRODUCER NAME, CONTACT PERSON AND ADDRESS Fairmont Insurance Brokers, LTD. 1600 60th Street Brooklyn NY 11204		PHONE (A/C, No, Ext): (718) 232-3300 COMPANY NAME AND ADDRESS Chubb Custon Insurance Company/Foremost Insu 100 village CT ste 101 Hazlet NJ 07730-1548 NAIC NO:	
FAX (A/C, No): (718) 256-9062 E-MAIL ADDRESS: Mordyl@fairmontins.com		IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
CODE: AGENCY CUSTOMER ID #: 00021463		SUB CODE: POLICY TYPE Commercial Property	
NAMED INSURED AND ADDRESS Long Beach Road Holdings LLC PO Box 568 Yonkers NY 10710		LOAN NUMBER POLICY NUMBER 99773470-00	
ADDITIONAL NAMED INSURED(S)		EFFECTIVE DATE 4/21/2012 EXPIRATION DATE 4/21/2013 CONTINUED UNTIL TERMINATED IF CHECKED	
THIS REPLACES PRIOR EVIDENCE DATED:			

 PROPERTY INFORMATION (Use REMARKS on page 2, if more space is required) ☒ BUILDING OR ☐ BUSINESS PERSONAL PROPERTY

LOCATION/DESCRIPTION Loc# 00001/Bldg# 00001, 312 Long Beach Road Island Park, NY 11558
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION		PERILS INSURED	BASIC	BROAD	<input checked="" type="checkbox"/> SPECIAL
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$		840,000 DED: 2,500			
	YES	NO	N/A		
<input checked="" type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> RENTAL VALUE	<input checked="" type="checkbox"/>			If YES, LIMIT: 73,200	Actual Loss Sustained; # of months:
BLANKET COVERAGE	<input checked="" type="checkbox"/>			If YES, indicate value(s) reported on property identified above: \$	
TERRORISM COVERAGE	<input checked="" type="checkbox"/>			Attach Disclosure Notice / DEC	
IS THERE A TERRORISM-SPECIFIC EXCLUSION?	<input checked="" type="checkbox"/>				
IS DOMESTIC TERRORISM EXCLUDED?	<input checked="" type="checkbox"/>				
LIMITED FUNGUS COVERAGE	<input checked="" type="checkbox"/>			If YES, LIMIT:	DED:
FUNGUS EXCLUSION (If "YES", specify organization's form used)	<input checked="" type="checkbox"/>				
REPLACEMENT COST	<input checked="" type="checkbox"/>				
AGREED VALUE	<input checked="" type="checkbox"/>				
COINSURANCE	<input checked="" type="checkbox"/>			If YES, 80%	
EQUIPMENT BREAKDOWN (If Applicable)	<input checked="" type="checkbox"/>			If YES, LIMIT:	DED:
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg	<input checked="" type="checkbox"/>				
- Demolition Costs	<input checked="" type="checkbox"/>			If YES, LIMIT:	DED:
- Incr. Cost of Construction	<input checked="" type="checkbox"/>			If YES, LIMIT:	DED:
EARTH MOVEMENT (If Applicable)	<input checked="" type="checkbox"/>			If YES, LIMIT:	DED:
FLOOD (If Applicable)	<input checked="" type="checkbox"/>			If YES, LIMIT: 400,000	DED: 1,000
WIND / HAIL (If Subject to Different Provisions)				If YES, LIMIT:	DED:
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS					

<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
---

<b>ADDITIONAL INTEREST</b>	
MORTGAGEE LENDERS LOSS PAYABLE <input checked="" type="checkbox"/>	CONTRACT OF SALE Mortgagee & Loss Payee
NAME AND ADDRESS The Westchester Bank ISAOA ATIMA 2001 Central Park Avenue Yonkers, NY 10710	
LENDER SERVICING AGENT NAME AND ADDRESS AUTHORIZED REPRESENTATIVE M Mishkowitz/ERICAR	



EVIDENCE OF COMMERCIAL PROPERTY INSURANCE REMARKS - Including Special Conditions (Use only if more space is required)

Plaintiff's  
EXHIBIT 4



# CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)  
 10/25/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Fairmont Insurance Brokers, LTD. 1600 60th Street Brooklyn NY 11204		CONTACT NAME: Erica Richardson PHONE (A/C No. Ext): (718) 232-3300 E-MAIL ADDRESS: EricaR@fairmontins.com FAX (A/C No.): (718) 256-9062	
INSURED Long Beach Road Holdings LLC PO Box 568 Yonkers NY 10710		INSURER(S) AFFORDING COVERAGE INSURER A: Tower Group Companies INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

## COVERAGES

CERTIFICATE NUMBER: CL12102537958

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY					
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		CLD0003528	4/21/2012	4/21/2013	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
						MED EXP (Any one person) \$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					PERSONAL & ADV INJURY \$ 1,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					GENERAL AGGREGATE \$ 2,000,000
	AUTOMOBILE LIABILITY					PRODUCTS - COMP/OP AGG \$ 0
	ANY AUTO					COMBINED SINGLE LIMIT (Ea accident) \$
	ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per person) \$
	HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per accident) \$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR				PROPERTY DAMAGE (Per accident) \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				\$
	DED	RETENTION \$				EACH OCCURRENCE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					AGGREGATE \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A			\$
	If yes, describe under DESCRIPTION OF OPERATIONS below					WC STATU-TORY LIMITS
						OTH-ER
						E.L. EACH ACCIDENT \$
						E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The certificate holder is listed as additional insured with respect to 312 Long Beach Road, Island Park, NY 11558

## CERTIFICATE HOLDER

## CANCELLATION

The Westchester Bank  
 ISAOA ATIMA  
 2001 Central Park Avenue  
 Yonkers, NY 10710

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

M Mishkowitz/ERICAR

ACORD 25 (2010/05)

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Plaintiff's  
EXHIBIT 5

**JACKIE JAMES**

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To: Joseph Spiezio  
Subject: RE: Long Beach Road Holdings (Policy#: 87051013312012 DOL: 10/29/12)

-----Original Message-----

From: Joseph Spiezio [mailto:Joseph.Spiezio@wasteservices.net]  
Sent: Thursday, May 22, 2014 11:28 AM  
To: 'Jacqueline James'  
Subject: FW: Long Beach Road Holdings (Policy#: 87051013312012 DOL: 10/29/12)

Joseph F. Spiezio, III  
Chairman

[wsa]

1 Radisson Plaza,  
New Rochelle, NY 10801  
joseph.spiezio@wasteservices.<mailto:joseph.spiezio@wasteservices.>net  
914-378-0100 (T) Ext. 1851  
914-992-8430 (F)

**DISCLAIMER**

No principal, employee or agent of the sender is authorized to conclude any binding agreement or the amendment/authorization of any contractual obligation mentioned herein on behalf of this entity with another party by email unless such agreement is confirmed in a writing signed by an official of the party to be charged. The sender accepts no liability for the content of this email, or for the consequences of any actions taken on the basis of the information provided, unless that information is subsequently confirmed in a writing signed by an official of the party to be charged.

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From: Nora Kelty [mailto:nkelty@FairmontIns.com]  
Sent: Tuesday, December 17, 2013 4:53 PM  
To: sarah.bigelow@dhs.gov  
Cc: Moishe Mishkowitz; Joseph Spiezio; Joseph Pollak  
Subject: Long Beach Road Holdings (Policy#: 87051013312012 DOL: 10/29/12)

Hello Sarah-

We are writing in response to the letter (attached) that was sent to our insured, upholding the denial of their flood claim that was filed with Foremost Insurance.

A

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This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please immediately alert the sender by reply e-mail and then delete this message and any attachments. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

Nora Kelly-on behalf of Moishe Mishkowitz, President  
Fairmont Insurance Brokers, LTD.  
1600 60th Street, Brooklyn, NY 11204  
PH: 718-232-3300  
Fax: 718-906-0903  
nkelly@fairmontins.com <mailto:nkelly@fairmontins.com>

Sincerely,

Having reviewed all of the above, it is quite clear that the insured was in compliance with the NFIP guidelines and the claim should be paid in full.

The effective date of coverage began at 12:01 a.m. after the application and the present of payment of the premium. From the above statement, if the insured was in the process of closing, they would be covered, as this was the initial purchase of flood insurance through a refinance. The two letters from the mortgagee reconfirm that the insured was in the process of closing.

"The following two exceptions are crucial to a variety of situations that lenders deal with every day. They apply when coverage is placed in conjunction with loan activity or remapping of a community. NFIRA contains what is called the "initial purchase" provision, which states the 30-day waiting period does not apply to the following instances: (1) The initial purchase of flood insurance.....when the purchase is in connection with the making, increasing, extension, or renewal of a loan".

Below is a statement from the NFIP manual:

We have included a letter dated 10/1/12 from the insured's bank advising that flood insurance was needed prior to closing. Furthermore we have a current letter from the bank reiterating this point, and making it more clear that in-force flood insurance was required prior to the scheduling of the closing date.